

THE HON'BLE SMT JUSTICE T. MEENA KUMARI

And

THE HON'BLE SRI JUSTICE P LAKSHMANA REDDY

WRIT PETITION No. 21348 OF 2004

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Dated: 21-09-2005

Between

1. The Superintending Archaeologist,
Archaeological Survey of India, Hyderabad Circle

And three others. ..Petitioners

And

MD. Nazma Khanam, w/o. Sri S.A. Jaleel,

Aged 29 years, Occ. Housewife,

R/o. 20-13-53/A, Sangadi Gunta, Guntur. ..Respondent

THE HONOURABLE SMT JUSTICE T. MEENA KUMARI

And

THE HONOURABLE SRI JUSTICE P LAKSHMANA REDDY

WRIT PETITION No. 21348 OF 2004

ORDER (per the Hon'ble Sri Justice P Lakshmana Reddy):

1. This writ petition is filed against the order dated 29.07.2004 passed in O.A. No. 969/2003 by the Central Administrative Tribunal, Hyderabad, directing the petitioners herein to extend the terminal benefits as per rule and to pay the family pension and gratuity to which the respondent-applicant is entitled to within a period

of two months from the date of receipt of a copy of its order.

2. The brief facts that are involved in the case are as follows:

The undisputed facts are that while the deceased husband of the applicant Sri A. Jaleel, working as Surveyor Gr-II in the office of the first respondent left Hyderabad on official tour on 9.9.99 for 29 days. But, thereafter, he did neither return nor intimated the office about his whereabouts. A memo dated 30.11.1991 was sent to the employee by the respondent with a copy endorsed to the applicant herein and his father and the applicant replied to the said letter informing that her husband was missing from 12.9.99. Initially the respondents treated the case as a case of absconding from duty and terminated the services of the deceased husband of the applicant. But after receiving a police report dated 1.8.2002 stating that the enquiries were made on the basis of the FIR No.174/99 under man missing he could not be traced, the Director General, Archaeological Survey of India, New Delhi was informed of the matter requesting him to treat the termination as null and void, since the Government employee was missing and has not been traced according to the police report and hence it cannot be a case of absconding from duty. Therefore, the termination order was declared as null and void. The first respondent vide letter No. 1/GPFD/2002-03/4715 dated 20.2.2003 directed the applicant to submit legal heir certificate and indemnity bond or guardianship certificate along with her application. The applicant submitted all the documents wanted by the respondents, which were received by the respondents. It is the grievance of the applicant that when all the documents were received by the respondents, they have not taken any steps to pay the terminal benefits and family pension of the applicant as per rule.

When the matter stood thus, the respondents issued the impugned letter dated 9.8.2003 directing the applicant to submit legal heir certificate from M.R.O. It is mentioned in the said letter that in the absence of legal heir certificate the amount of GPF, CGEIS, savings fund, leave encashment etc., could not be drawn and paid to the applicant. Aggrieved by the said letter, the applicant has filed the O.A. No. 969/2003 seeking for an order quashing the impugned letter issued by the 1st respondent insisting on production of legal heir certificate from MRO for payment of balance amounts of GPF, CGEIS, Savings Fund, Leave Encashment etc., due and for payment of family pension and gratuity to the applicant as per the eligibility in terms of the provisions contained in CCS (Pension) Rules 1972.

3. The respondents contested the O.A stating that it is a case of man-missing and in view of the directions of the Director General for making further enquiry, they stopped and kept in abeyance the process of pension papers till a report is received from the District Collector and thus the O.A is premature. It is also their case that the applicant can claim for pensionary benefits after it is confirmed on the basis of the Collector's report that her husband was missing.

4. The Tribunal, after considering the rival contentions allowed the O.A holding that in view of the report given by the police that the deceased employee S.A. Jaleel was undetectable and missing, there is no necessity for making any further enquiry and that since the indemnity bond has already been submitted by the applicant as per rule, it set aside the order of the impugned letter dated 9.8.2003. It also directed the authorities to extend the terminal benefits as per rule and to pay the family pension and gratuity to the applicant within a period of two months from the date of its order. Aggrieved by the said finding the present writ petition.

5. Heard.

6. During the course of hearing, learned Standing Counsel appearing on behalf of the writ petitioners submitted that the writ petitioners insisted for production of legal heir certificate and as the respondent-applicant failed to produce the same, the benefits due to the applicant could not be settled.

7. Learned Counsel appearing on behalf of the respondent-applicant has though initially contended that there is no need to file legal heir certificate, yet ultimately, agreed to produce the same and requested this Court to dispose of the writ petition with such a direction to the writ petitioners to release all the benefits that are due to the applicant immediately on production of the above said certificate.

8. In view of the understanding reached between the counsel appearing on behalf of both the parties, we dispose of this writ petition with a direction to the respondent-applicant to produce the legal heir certificate before the first respondent and on such production of the same, the writ petitioners are directed to pay the balance amounts of GPF, CGEIS, Savings Fund, Leave Encashment etc., to the persons eligible as per the legal heir certificate and in accordance with the Rules. As regards the family pension and gratuity, we direct the writ petitioners to settle the same expeditiously within a period of three (3) months from the date of receipt of a copy of this order.

9. With the aforementioned observations, writ petition is disposed of. No costs.

T. MEENA KUMARI, J

P. LAKSHMANA REDDY, J

Dt. 21.09.2005

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THE HONOURABLE SMT JUSTICE T. MEENA KUMARI

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WRIT PETITION No. 21348 OF 2004

(per the Hon’ble Sri Justice P Lakshmana Reddy):

21st September 2005